

**Annual Mandatory Collection of Elementary and Secondary  
Education Data through *EDFacts***

January 2017

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**ATTACHMENT F-1**

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***EDFacts* Data Set  
for School Years 2016-17,  
2017-18, and 2018-19  
Response to 60-Day Public  
Comments**

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## INTRODUCTION

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This attachment contains the responses to public comments on the Annual Mandatory Collection of Elementary and Secondary Education Data through EDFacts. The 60-day comment period for the EDFacts package closed on October 24, 2016. ED received a total of 27 comments covering multiple topics. A total of 162 comment/topic combinations (hereinafter referred to as ‘statements’) were received. The majority of submissions and statements came from states (see below).

Submitters	Submissions	Individual statements
<b>Total</b>	<b>27</b>	<b>162</b>
State	22	152
LEA	1	1
Other	4	9

ED received comments on the three directed questions, specific areas of data collection that were shown in the B attachments, and the information clearance process. This document is organized topically into the following sections:

- Teachers
- Accountability Indicators
- Virtual Schools
- Support & Support Identification
- English Learners
- Newly Proposed Data Categories
- Every Student Succeeds Act (ESSA)
- OSEP/IDEA
- Chronic Absenteeism
- General Comments

Each section provides either a summary of the public statements received or the actual text received in a comment, ED’s response to those statements, and any resulting changes being made to the proposed data collection package. In addressing the public statements and making revisions to the package, ED focused on recommendations from the public statements that continue to move EDFacts forward in achieving the goals of consolidating collections, obtaining high quality data, and reducing burden on data suppliers.

Note that some comments received were about ESSA regulations and not about the EDFacts package. For the Department’s responses to comments received on the Notice of Proposed Rulemaking on accountability, state plans, and data reporting, please see the final regulation published in the federal register on November 29th, 2016.

ED appreciates the time and attention the public spent on reviewing the EDFacts package and in composing thoughtful comments that shape the final data set, as evidenced in this attachment. ED reviewed, summarized, and documented each statement prior to analyzing all statements. This documentation will aid in the finalization of this data clearance package and will serve to inform future policy decisions regarding EDFacts.

## TEACHERS

The following directed question was asked about adding new data groups relating to teachers into the EDFacts data collection. The statements have been grouped and summarized below. Following the summary of statements for each group is ED's response.

### *Directed Question #1. TEACHERS*

*Two new data groups are being proposed to collect the number of teachers who are identified by the state as:*

- Experienced, teaching with an emergency or provisional credential, or teaching in a subject or field for which they are not certified or licensed, and*
- Effective.*

*For each, numbers would be reported as well as the unit total.*

- a) Rather than the two data group design, do you have other suggestions for how to collect this data efficiently, maintaining the original intent, and ensuring data quality?*
- b) The number of teachers could be collected as a headcount or by FTE. Should the data be collected by headcount or FTE?*

### SHOULD DATA GROUPS BE COLLECTED AS TWO GROUPS OR ONE

#### **Public Comments**

A total of 12 states and one organization submitted 22 statements related to the question about collecting the data in two data groups. Three states supported that these teacher groups be kept as separate data groups. No statements supported putting them together.

#### **ED Response**

ED maintained two separate data groups, consistent with the "Teacher table" and "Teacher effectiveness table" proposed in the 60 day package. Consistent with commenter input, teacher effectiveness will be in a separate EDFacts file from the collection of teachers who are inexperienced, out-of-field, and teaching with an emergency or provisional credential. ED agrees that collecting the data in one file may jeopardize data quality as these collections are unlikely to be collected together by SEAs.

### HEADCOUNT OR FTE

#### **Public Comments**

A total of 10 states submitted 12 statements related to the question about whether teachers should be collected as a headcount or by FTE. Six states suggested using FTE, 2 selected headcount, and 2 noted that it depends on the final metrics being used. States requested guidance about reporting teachers who teach at multiple schools and/or districts.

#### **ED Response**

In response to public comments received on directed question #1b, "Collect teacher data as headcount or FTE?" ED has decided to collect data on teachers who are inexperienced, out-of-field, and teaching with an emergency or provisional credential as a full-time equivalent. ED agrees with commenters who stated that an FTE will allow the Department to collect more accurate data as well as nuanced data on teachers

who teach multiple subjects/courses. The teacher effectiveness data will be collected as a headcount. Technical instructions about types of counts will be in the file specifications. Regarding teachers who teach at multiple schools and/or districts, the teacher should be reported at the school or district where they spend the majority of their time.

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**GENERAL COMMENTS – EFFECTIVE AND EXPERIENCED TEACHERS**

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**Public Comments - *Teacher effectiveness***

One state noted that teachers may teach multiple content areas and be effective in one content area and not another; the commenter suggested further clarification of the intent of the new teacher effectiveness data group.

Two states commented that Data Group 737 and DG 738 will be retired while a new data group on teacher effectiveness was proposed. The states noted that additional guidance on how the data groups will differ would be helpful to ensure that educator evaluation systems meet the needs of the proposed new data group.

Three states commented that reporting teacher effectiveness on the state or district report cards should not be a requirement and is overreaching the minimum requirements outlined in the law.

**ED Response**

Section 1111(g)(1)(B) and (2)(A) of the ESEA, as amended by the ESSA, requires each SEA to describe how low-income and minority children enrolled in title I schools are not served at disproportionate rates by, among other teachers, “ineffective teachers” and to make public the methods or criteria the state is using to measure teacher effectiveness for the purpose of meeting this educator equity requirement. Thus, the state has discretion over defining what effectiveness means as well as over the method of assigning teachers an effectiveness rating. Please note that per the final regulations published in the federal register on November 29th, 2016, States are required to develop a statewide definition of, or statewide guidelines for LEA definitions of effectiveness.

While the structure of the teacher effectiveness data collection will closely mirror what was collected under data groups 737 and 738, a new data group was created in order to signal that this is a new collection under a new statute. Section 1111(g)(1)(B) and (2)(A) of the ESEA, as amended by the ESSA, requires each SEA to describe how low-income and minority children enrolled in title I schools are not served at disproportionate rates by, among other teachers, “ineffective teachers” and to make public the methods or criteria the state is using to measure teacher effectiveness for the purpose of meeting this educator equity requirement. For more guidance on ESSA, please visit:

<http://www2.ed.gov/policy/elsec/leg/essa/index.html>

ED disagrees with the comments asserting that the teacher effectiveness data collection is an overreach of the statute. Section 1111(e)(1)(B)(iii)(IX) and (X) of the ESEA, as amended by the ESSA, provides that “nothing in this Act shall be construed to authorize or permit the Secretary...to prescribe (IX) any aspect or parameter of a teacher, principal, or other school leader evaluation system within a State or LEA, or (X) indicators or specific measures of teacher, principal, or other school leader effectiveness or quality.” Requiring a statewide definition of, or statewide guidelines for LEA definitions of, effectiveness in no way constitutes prescribing an aspect or parameter of an evaluation system, nor the indicators or specific measures of effectiveness or quality.

### **Public Comments - *Teacher experience***

Several comments were submitted regarding definitions. Some comments below are summaries and some are exact text submitted:

- We are concerned in the teacher area that they seem to be treating experienced and working with an emergency certificate as mutually exclusive. An experienced educator can be asked to work under a temporary minor assignment certification to cover a shortage area class. Consider a biology teacher with 10 years of experience who is asked to work under a TAMA to teach a Chemistry class (0.2 FTE). This person would be both experienced and working under an emergency certificate. These items should be collected separately.
- Commenters recommended that ED provide very clear definitions of terms, including, but not limited to: Emergency, Provisional, and Out of Field. Out of Field Status: Will these be collected at the individual teacher level? How many classes taught by individual teacher would classify them as "out of field"? What number of classes is the threshold to have "out of field" applied to teachers? Or will this be a course level collection?
- It is very likely that teachers will meet some, all, or none of these criteria – and that it will vary throughout the school year since assignments may change. We collect data on years' experience in education but it is not linked to the staff position; therefore, we do not have data needed for this report depending on definitions. We will likely be able to provide a number for emergency or provisional credential (pending a definition). Teaching in a subject or field for which they are not certified or licensed becomes an issue in that some fully licensed teachers are teaching courses for which they are appropriately certified/endorsed but they may also have some course assignments within the same semester/school year for which they are not appropriately certified/endorsed. It is not clear how teachers who meet one or more of the data group elements would be counted.
- Please provide definitions for "Fully Certified Teacher" and "Not Fully Certified Teacher."
- A teacher may be an experienced teacher overall but may be teaching under an emergency certificate in a related area to address a teacher shortage. Therefore, experience and emergency certificate may not always be mutually exclusive.

### **ED Response**

ED appreciates all questions, comments and suggestions related to the proposed collection on teachers who are inexperienced, out-of-field, or teaching with an emergency or provisional credential. Below are points of clarification and additional guidance on these proposed data collections:

- The number of teachers who are inexperienced, out-of-field or teaching with an emergency or provisional credential will be collected separately in three different category sets within the same EDFacts data group. This allows states to report the same teacher across the three category sets.
- Per the final regulations published in the federal register on November 29th, 2016, states are required to develop a statewide definition of an "inexperienced" and "out-of-field" teacher (See 200.37(b)(3); 299.18(c)(2)(ii) and (iii)).
- The Department has not put forward a federal definition for what constitutes an emergency or provisional credential. However, the Department concluded that teaching under emergency or other provisional status means the State qualification or licensing criteria have been waived.
- States have discretion over how to define "fully certified teacher" and "not fully certified teacher".

Note that when new file specifications are drafted for SY 2017-18, states will have an opportunity to provide questions for data steward consideration in the technical reporting guidance.

### **Public Comments – Value Categories**

One state recommended that value categories be applied to both experienced and effective teachers; they already collect "effective", with numerical values of 1-3. If letter values are then applied to experienced, provisional or out of field of A-C respectively, teachers could be awarded a combined value.

### **ED Response**

Thank you for your suggestion to collect both teacher effectiveness and the number of teachers who are inexperienced, out-of-field, and teaching with an emergency or provisional credential as a value category. States will be able to report the number of teachers by the state-defined effectiveness levels. However, for the collection on the number of teachers who are inexperienced, out-of-field, and teaching with an emergency or provisional credential, the statute and final regulations requires that states report on the number and percentage of teachers. The proposed EDFacts collection was designed to be consistent with what is required in the statute and regulations.

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## ACCOUNTABILITY INDICATORS

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The following directed question was asked about newly proposed accountability indicator data groups. The statements have been grouped and summarized below. Following the summary of statements for each group is ED's response.

### *Directed Question #2: ACCOUNTABILITY INDICATORS*

*Under the ESSA, states have the flexibility to choose new statewide indicators that create a more holistic view of student success. States will define one or more specific indicators of school quality or student success as well as the performance levels associated with them. States are able to define progress levels for accountability indicators of academic achievement, graduation rates, academic progress, and progress towards English language proficiency. States also have the option to report by school level (elementary, middle or high).*

*The proposed approach for collecting this data is to have one data group for up to 10 state defined indicators. The state would report one table for each state defined indicator. Metadata about the definition and progress levels of the indicators will be collected in EMAPS.*

- a) In order to assist EDFacts in creating data groups and file specifications to support these flexibilities, can your state provide the following information:
  - i. How many indicators your state is considering?*
  - ii. What types of progress measures is your state considering?*
  - iii. Will your state use the same progress levels for each of these indicators or will the progress levels be unique for each indicator?**
- b) A metadata survey will be used to report the performance levels for each indicator. Will this proposed approach capture the information needed to correctly interpret the different progress indicators? If not, what do you propose as an alternative?*

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## HOW MANY INDICATORS CONSIDERING, WHAT TYPES USING

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### Public Comments

A total of 9 states submitted 25 statements related to the number and types of indicators their state will use.

Regarding the number of (how many) indicators and whether the progress levels will be unique: Responses for the number of indicators included 2+, 8, 10, and 19. A few states said it was too early to determine how many. Multiple states said the progress levels will be unique.

Types of measures: Below is a list of the types of measures noted in the comments -

- State assessment measures
- On-track measures
- College and career measures
- NeSA status
- Improvement
- Non-Proficiency
- Participation
- Scores related school/district
- Positive partnerships
- Relationships and student success
- Transitions
- Educational opportunities and access
- Educator effectiveness
- Chronic absenteeism
- Professional development
- College and career coursework access and completion
- English-language arts achievement
- Mathematics achievement
- Graduation rates
- English Learner progress
- Suspension rates
- Student growth on annual assessment

A few states also challenged the return on investment of this data since it will be hard to understand and it is not comparable between states. Two states suggested that instead of collecting this data states could provide evidence of the public reporting of accountability data and facilitate sharing of best practices in public reporting across states.

### ED Response

Thank you for providing information in response to directed question #2a, “How many indicators is your state considering?” as well as comments related to the complexity of state accountability systems and anticipated data reporting burden. ED is making the following modifications to the proposed collection of the accountability indicators in order to reduce burden:

- Eliminate the following proposed accountability indicators: (1) Mathematics Academic Achievement Indicator, (2) Reading/Language Arts Academic Achievement Indicator, (3) Mathematics Academic Progress Indicator, and (4) Reading/Language Arts Academic Progress Indicator. Instead, one consolidated Academic Achievement Indicator and one consolidated Academic Progress Indicator will be collected as required by the final regulations published in the federal register on November 29th, 2016.
- Eliminate the disaggregation by school-level (accountability) in the Academic Progress Indicator and School Quality or Student Success Indicator.



While ED acknowledges the complexity of states' accountability systems, the Department believes these proposed collections will assist the Department in better understanding the accountability systems when reviewed in coordination with State Plans and State/LEA Report Cards. ED does not believe collecting the accountability data via State and LEA Report Cards will be feasible given the different methods in which states are likely to utilize in making the information available to the public.

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### WILL METADATA CAPTURE INFORMATION NEEDED

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#### **Public Comments**

A total of 6 states submitted 7 statements concerning related metadata. Three states said yes, the approach will capture the information needed to correctly interpret the different progress indicators; 2 said unknown; and 1 state said only if EMAPS stays open.

#### **ED Response**

Thank you for your feedback and support in response to directed question #2b on whether a metadata survey will capture the information needed to correctly interpret states' accountability indicators. We agree that a metadata survey will provide the information needed in order to interpret the different levels states will be using to differentiate performance on the accountability indicators across schools. Additional guidance and support will be provided in the future to ensure states know what information will be required in the metadata survey.

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### GENERAL COMMENTS

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#### **Public Comments - *School Quality or Student Success Indicator Status Table***

One commenter noted that the instructions are unclear whether and how states will be able to report schools' performance if the state incorporates multiple indicators under this category into their accountability systems. The commenter noted they may also choose the option of phasing indicator(s) into its system, as the State Department of Education is able to develop the data collection systems necessary to fully implement the recommendations of stakeholder groups. The state noted that this (these) indicator(s) will not be comparable between years as additional data is factored in. The commenter noted that EDFacts reporting on this indicator will not be comparable across states as each state is likely to have a unique method of determining student success or school quality, as is allowed under the law. The commenter questions the reliability of this data element into EDFacts reporting.

#### **ED Response**

As proposed via this information collection, the School Quality or Student Success indicator will be disaggregated by indicator type to allow states to report on the multiple measures states decide to include in this indicator. In addition, the metadata survey will be the mechanism in which states provide information about each state reported measure.

#### **Public Comments – *Summative Rating Status Table***

One state noted that it is not clear how the Summative Rating Status Table fits into the requirements of the law. The commenter noted that the proposed package does not define "progress" and that the lack of definition did not allow the state to provide an informed comment as the lack of a definition left ambiguity about the purpose of the collection. The commenter noted that although states are required to identify and have a process and weights for identifying schools for comprehensive and targeted support,

ESSA does not require a summative rating in a state's accountability system. The commenter noted that this further obfuscates what data states will be required to submit under this item.

### **ED Response**

ED believes that the requirement for each state to provide schools with a summative determination from among at least three rating categories is consistent with the law's requirements for school identification in ESEA section 1111(c)-(d). The requirement for a summative determination was clarified in 34 C.F.R. § 200.18(a)(4) of the final regulations published in the federal register on November 29th, 2016 (see: <https://www.federalregister.gov/documents/2016/11/29/2016-27985/elementary-and-secondary-education-act-of-1965-as-amended-by-the-every-student-succeeds>) to allow states to satisfy the requirement by using the following categories: (1) schools in comprehensive support and improvement, (2) schools in targeted support and improvement and (3) schools that are not identified. However, states may still choose to use other categories in order to satisfy the summative determination requirement.

For example, one State could develop a two-dimensional matrix, with schools assigned an overall performance category based on how they fare on each dimension, while another State could design a numerical index that awards points for each accountability indicator, with an overall score driving the summative determination, while yet another State could assign each school a determination based on the number of indicators on which the school performs at a particular level or another set of business rules. A State also has discretion to assign a single grade or number or to develop some other mechanism, including one based on a data "dashboard," for reaching a single summative determination--categories of schools like "priority" and "focus" schools that States have used under ESEA flexibility, for example, would also be permitted, as well as "comprehensive support and improvement," "targeted support and improvement," and "not identified" categories of schools.

Given the clarification in 34 C.F.R. § 200.18(a)(4) that a State may meet this requirement by identifying, at a minimum, the two statutorily required categories of schools along with a third category of schools that are not identified, we believe it is clear that this regulation falls squarely within the Department's rulemaking authority under GEPA, the DEOA, and section 1601(a) of the ESEA, as amended by the ESSA, and within the scope of section 1111(c) of the ESEA, as amended by the ESSA, consistent with section 1111(e) of the ESEA, as amended by the ESSA. Each State retains significant discretion to design its methodology and determine how it will reach a single summative determination for each school.

### **Public Comments – *Minimum n-size***

One state noted that while there is an expectation to report groups that fall under the state minimum n-size via EDFacts for the new Accountability Indicators (Graduation Rate, Mathematics Academic Achievement, Reading/Language Arts Academic Achievement, Consolidated Academic Achievement, Mathematics Academic Progress, Reading/Language Arts Academic Progress, Consolidated Academic Progress, Progress in achieving English Language Proficiency, and School Quality or Student Success) this information will not be statistically sound. The state noted that there does not appear to be a mechanism to indicate that the group fell under the n-size (similar to "TOO FEW" permitted value for some AYP indicators). The proposed permitted value set for these indicators only includes levels 1 through 10. Recommendation from the state: allow states to not report a result for a subgroup where the subgroup falls below the minimum n-size because the results will not be statistically sound and therefore should also not be reported to ED.

### **ED Response**

Thank you for your suggestion regarding how states should report on groups of students that fall under the minimum n-size and do not yield statistically significant results. States are not required to report the performance level for groups of students that fall under the minimum n-size. ED has added the following permitted values to the accountability indicator data groups: “Too few students” and “No students in the subgroup.”

### **Public Comments – Graduation Rate Indicator**

One state noted that they interpret the “Education Unit Total” in the proposed graduation rate indicator to mean the status for all students. The state requested that that the ED clarify what is meant by “Education Unit Total”.

The state was also not clear on the difference between mathematics and reading/language arts academic achievement and academic progress. ED needs to provide more clarity regarding the exact data required in this collection. ESSA and its proposed regulations do not require a combining of reading/language arts and mathematics to create a single progress level. Requiring the consolidated academic achievement and progress indicators is beyond the scope of law. We will not produce a summative rating unless required in ESSA regulations. If a summative rating is not required in ESSA regulations, we will not be submitting data for this data group.

### **ED Response**

The state is correct that “Education Unit Total” means the status for all students.

In 34 C.F.R. § 200.14 of the final regulations published in the federal register on November 29th, 2016 (see: <https://www.federalregister.gov/documents/2016/11/29/2016-27985/elementary-and-secondary-education-act-of-1965-as-amended-by-the-every-student-succeeds>), and consistent with ESEA section 1111(c)(4)(B), States are required to include following indicators in their state accountability systems: (1) Academic Achievement Indicator, (2) Academic Progress Indicator, (3) Graduation Rate Indicator, (4) Progress in Achieving English Language Proficiency Indicator, and (5) at least one School Quality or Student Success Indicator. The Academic Achievement Indicator is required for all schools and must, consistent with ESEA section 1111(c)(4)(B)(i)(I) and 34 C.F.R. § 200.14(b)(1)(i)(A), include:

"A measure of student performance on the annual reading/language arts and mathematics assessments required under section 1111(b)(2)(B)(v)(I) of the Act at the proficient level on the State’s grade-level academic achievement standards consistent with section 1111(b)(1) of the Act, except that students with the most significant cognitive disabilities may be assessed in those subjects against alternate academic achievement standards defined by the State consistent with section 1111(b)(1)(E) of the Act."

Thus, the Academic Achievement indicator includes, in the aggregate, combined reading/language arts and mathematics performance data; in other words, the statute and regulations provide for a single Academic Achievement indicator that must include at least two measures—grade-level proficiency in reading/language arts and grade-level proficiency in mathematics on the statewide assessments. The inclusion of the consolidated Academic Achievement indicator in this data collection is consistent with these statutory and regulatory requirements.

Similarly, ESEA section 1111(c)(4)(B)(ii) and 34 C.F.R. § 200.14(b)(2) require an Academic Progress Indicator for elementary and secondary schools that are not high schools that includes either "A measure of student growth based on the annual assessments required under section 1111(b)(2)(B)(v)(I) of the Act" or "Another academic measure that meets the requirements of paragraph (c) of this section." As both

reading/language arts and mathematics assessments are required under ESEA section 1111(b)(2)(B)(v)(I), a State choosing to include a measure of student growth in its Academic Progress indicator based on these statewide assessments would likewise be required to combine growth in both subject areas into a single indicator.

However, a State need not measure student growth based on State assessment results in the Academic Progress indicator; it may elect to include any other measure that meets the applicable requirements, such as, for example, performance on other statewide assessments (e.g., in science and social studies), or the rate at which achievement gaps are closing within a school. Thus, in some cases, the Academic Progress indicator will include multiple measures for each school, while in other cases, it may include a single measure. For these reasons, this data collection requires, consistent with ESEA section 1111(h)(1)(C)(iii) (I), performance on the Academic Progress indicator as a whole to be reported (e.g., student growth in both reading/language arts and mathematics), rather than on each individual measure within the Academic Progress indicator, separately.

Please note that ED has eliminated the following accountability indicator data groups in the information collection: (1) Mathematics Academic Achievement Indicator, (2) Reading/Language Arts Academic Achievement Indicator, (3) Mathematics Academic Progress Indicator, and (4) Reading/Language Arts Academic Progress Indicator. The "Consolidated Academic Achievement Indicator" has been renamed to "Academic Achievement Indicator" and the "Consolidated Academic Progress Indicator" has been renamed to "Academic Progress Indicator." ED believes that the reporting requirements for the Academic Achievement Indicator and Academic Progress Indicator as well as the Summative Determination are wholly consistent with the statute and final regulations, which only permit a single Academic Achievement and Academic Progress indicator.

Further, the summative determination requirement (based on all indicators) was clarified in 34 C.F.R. § 200.18(a)(4) of the final regulations to allow states to satisfy this particular requirement by using the following categories of schools, including the two categories required in ESEA section 1111(c) and (d): (1) comprehensive support and improvement, (2) targeted support and improvement and (3) schools that are not identified for support and improvement. However, states may still choose to use other categories in order to satisfy the summative determination requirement.

Given the clarification in § 200.18(a)(4) that a State may meet this requirement by identifying, at a minimum, the two statutorily required categories of schools along with a third category of schools that are not identified, we believe it is clear that this regulation falls squarely within the Department's rulemaking authority under the General Education Provisions Act (GEPA), the Department of Education Organization Act (DEOA), and section 1601(a) of the ESEA, as amended by the ESSA, and within the scope of section 1111(c) of the ESEA, as amended by the ESSA, consistent with section 1111(e) of the ESEA, as amended by the ESSA. Each State retains significant discretion to design its methodology and determine how it will reach a single summative determination for each school. For example, a State has discretion to assign a single grade or number to all schools, or to develop another mechanism, including one based on a data "dashboard," for reaching a single summative determination--categories of schools like "priority" and "focus" schools that States have used under ESEA flexibility, for example, would also be permitted, as well as "comprehensive support and improvement," "targeted support and improvement," and "not identified" categories of schools.

#### **ED Comment on Cohort Status**

Since the release of the 60-day package, the Department has continued to build its understanding of the data needed to support ESEA, as amended by the ESSA. Our understanding has been aided by the public

comments received in response to the Notice of Proposed Rulemaking for Accountability, State Plans, and Data Reporting as well as the comments received in response to this information collection. As a result, we are adding a permitted value to the category “Cohort Status” in the 30-day package. While not directly linked to any specific public comments, the Department has determined that the additional permitted value is needed in order to accurately calculate the adjusted-cohort graduation rates.

### **Public Comments – *Partial enrollment***

One commenter noted that the proposed regulations would require States to include all students who were enrolled in the same school within an LEA for at least half of the academic year when calculating school performance on each of the accountability indicators for the purposes of annual meaningful differentiation. They noted that this is significantly different from the current practice in the state of including students who are in a school for at least 162 days of a school year when calculating school performance on each of the accountability indicators. The commenter noted that there will be an impact on continuity and comparability of data moving forward, including:

- A change to 50% of the school year will have a drastic impact and raise potential validity issues in that schools and districts are accustomed to being held accountable for the performance of students who have been enrolled at a school for at least 90% of the school year.
- It also raises questions of whether the accountability system accurately depicts the performance of a school year when students have not been enrolled for a majority or a significant portion of the school year, or in instances where a school educates a student for one month prior to the administration of the statewide assessment and is then held accountable for that student.

The commenter also noted that it is unclear whether two schools may be held accountable for the same student during the same school year. For example, a student may be enrolled at School A for the first half of the school year and then transfer to School B for the last half of the school year. This not only raises questions of data collection but validity of accountability.

The commenter stated a preference that partial enrollment definition be a state level function and not one that the federal government has any oversight on. However, if this rule should pass, the commenter suggested that the regulation reflect the language in the sec. 1111(c)(4)(F) of the Every Student Succeeds Act, which provides States the option to include all students who were enrolled in the same school within an LEA for at least half of the academic year when calculating school performance on each of the accountability indicators for the purposes of annual meaningful differentiation; but requires States to include all students who were enrolled in the same school within an LEA for at least half of the academic year for purposes of reporting on state and LEA report cards.

### **ED Response**

ED acknowledges that this requirement results in a change in practice in many states as well as a potential loss in the comparability of these data. However, ED believes this requirement must be maintained as it is based on section 1111(c)(4)(F) of the ESEA, as amended by the ESSA.

### **Public Comments – *Consolidated Academic Progress & Consolidated Academic Achievement Indicators***

One commenter noted that Consolidated Academic Progress and Consolidated Academic Achievement indicators are not mentioned in either the law or the proposed accountability and report card regulations. They were unclear how ED would even go about having states construct this indicator, what value it would have, or for what purpose the data would be used. Recommendation from the state: remove these indicators from the EDFacts package if they are not required by the law or proposed regulation and will not provide further value than the individual Mathematics and Reading/Language Arts indicators.

### **ED Response**

In Section 200.14 of the final regulations published in the federal register on November 29th, 2016 states are required to include following indicators in their state accountability systems: (1) Academic Achievement Indicator, (2) Academic Progress Indicator, Graduation Rate Indicator, Progress in Achieving English Language Proficiency Indicator, and School Quality or Student Success Indicator. The Academic Achievement Indicator is required for all schools and must be based on the long-term goals established under 200.13. Additionally, it must include "A measure of student performance on the annual reading/language arts and mathematics assessments required under section 1111(b)(2)(B)(v)(I) of the Act at the proficient level on the State's grade-level academic achievement standards consistent with section 1111(b)(1) of the Act, except that students with the most significant cognitive disabilities may be assessed in those subjects against alternate academic achievement standards defined by the State consistent with section 1111(b)(1)(E) of the Act" and "The performance of at least 95 percent of all students and 95 percent of all students in each subgroup consistent with § 200.15(b)(1)." The Academic Progress Indicator is required for elementary and secondary schools that are not high schools and must include either "A measure of student growth based on the annual assessments required under section 1111(b)(2)(B)(v)(I) of the Act" or "Another academic measure that meets the requirements of paragraph (c) of this section." ED has eliminated the following accountability indicator data groups: (1) Mathematics Academic Achievement Indicator, (2) Reading/Language Arts Academic Achievement Indicator, (3) Mathematics Academic Progress Indicator, and (4) Reading/Language Arts Academic Progress Indicator. The "Consolidated Academic Achievement Indicator" has been renamed to "Academic Achievement Indicator" and the "Consolidated Academic Progress Indicator" has been renamed to "Academic Progress Indicator." ED believes that the reporting requirements for the Academic Achievement Indicator and Academic Progress Indicator are wholly consistent with the statute and final regulations.

### **Public Comments – *School Quality or Student Success Indicator***

One commenter noted that since School Quality or Student Success will be a brand new indicator that states have yet to fully explore and decide what will work best in their state, they are advocating that this indicator be postponed for one year. Deep internal and external discussions need to occur around this indicator, as well as others. The commenter noted that they will likely utilize the later state plan submission date of July and will not have a plan submitted until after the school year ends, much less have it approved prior to the beginning of the next school year. Recommendation from the commenter: delay the collection of this indicator until 2018-19.

### **ED Response**

Implementation of most ESSA requirements, including reporting requirements, begins in the 2017-18 school year. Timelines for the data required through this information collection were designed to align with those requirements. The package includes a combination of continued, revised, and new data elements. ED understands that states need time to develop new data collections, particularly the accountability indicators, and to ensure all data submitted to the Department are of high quality. ED encourages states to move expeditiously to implement as many of the required changes as possible by the 2017-18 school year to ensure we have the information we need in order to successfully manage our grant programs.

### **Public Comments – *EL Status***

One commenter noted that they have not excluded English Learners who have been in the US fewer than 12 months in the academic achievement data. Instead, the state uses a definition that includes English

Learners if they are enrolled at any point. The commenter asked if states would have a have a choice in definition, under the ESSA regulations.

### **ED Response**

Per Section 200.16 of the final regulations published in the federal register on November 29th, 2016, states have the option to either include or exclude the results of recently arrived English learners as defined in section 1111(b)(3)(A) of the ESEA, as amended by the ESSA, from the first administration of the reading/language arts assessment.

### **Public Comments – *Graduation Rate***

One state noted that they identified a potential issue with the proposed ESEA rules that could affect their graduation rate reporting through EDFacts. The commenter noted that the proposed rules require the graduation rate be reported such that students who do not graduate until the conclusion of summer school immediately following their senior year would no longer be counted with their cohort, and therefore, their state's graduation rate would not accurately reflect the full number of completers in a single cohort. The commenter noted that most states use the graduation rate as a lagging indicator for this very reason. The provision in the proposed rules would preclude summer graduates from the graduation rate if reporting requirements are now based on the immediate preceding school year. The commenter noted that all state agencies need a reasonable window of time to vet the data received from the LEAs to ensure the final graduation rate is correct. An additional issue related to the high school graduation rate is the requirement that any high school failing to graduate at least two-thirds of its students based on a 4-year on-time cohort be identified for comprehensive support. By not allowing a 4-year adjusted or an extended graduation rate, as has been permitted in the past, nearly all of the state's alternative high schools would be identified in need of comprehensive support, thus making it difficult to "meaningfully differentiate" these schools based on actual student performance as required under ESSA.

### **ED Response**

Thank you for your comment regarding graduation rate reporting under ESSA. ED recognizes that the use of the preceding year's adjusted cohort graduation rate data for accountability purposes will be difficult given the inclusion of summer graduates. For this reason, ED revised the final regulations published in the federal register on November 29th, 2016 to permit States to lag graduation rate data by one year for the purposes of school accountability, including the identification of low graduation rate high schools and calculation of the Graduation Rate indicator. However, States are required to report the preceding year's adjusted cohort graduation rate data on State and LEA report cards. Section 8101(23) and (25) permits, but does not require, a State to include summer graduates in the numerator. If a State chooses not to include summer graduates in the numerator, those students still must be included in the denominator if they are part of the original cohort for that class.

Regarding your comment suggesting that the regulations be modified to allow States to choose whether to identify low graduation rate high schools based on the four-year adjusted graduation rate or the extended-year adjusted cohort graduation rate, the four-year adjusted cohort graduation rate is the primary measure of graduation rates within the statewide accountability system, including the Graduation Rate indicator, long-term goals, and measurements of interim progress. Therefore, identifying low graduation rate high schools using the four-year adjusted cohort graduation rate is critical to ensuring that when schools fail to graduate one-third of their students, they are identified and receive appropriate and meaningful supports so that each of their students can graduate. Indeed, using the four-year adjusted cohort graduation rate is essential to helping ensure that low graduation rate high schools are identified and receive appropriate and meaningful supports, even if a State establishes a graduation rate threshold that is higher than 67 percent.

However, we recognize that for a small subset of schools that serve unique populations of students, an extended-year rate may be a more appropriate indicator of a school’s performance, and we have revised § 200.18(d)(1)(iii) in the final regulations published in the federal register on November 29th, 2016 to clarify that States have flexibility to develop and implement alternate accountability methods--which may include the use of extended-year graduation rates--for schools designed to serve special student populations, including alternative schools, dropout recovery programs, and schools for neglected and delinquent youth. Under this provision, a State could, for example, propose through its State plan to use a five- or six-year adjusted cohort graduation rate to determine if an alternative or dropout recovery school’s graduation rate was 67 percent or less for the purposes of identifying those schools. Given this flexibility, the Department does not believe that requiring States to use the four-year adjusted cohort graduation rate will result in the inappropriate or over-identification of schools that primarily serve special populations of students.

## VIRTUAL SCHOOLS

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The following directed question was asked about modifying the existing permitted value names and definitions of the Virtual school status data group (DG803) within the EDFacts data collection. The statements have been grouped and summarized below. Following the summary of statements for each group is ED’s response.

*Directed Question #3. VIRTUAL SCHOOLS*

*ED is proposing to update Virtual school status (DG803) permitted value names and definitions in SY 2017-18 (see attachment B-3). The revisions are based on expert panel input after the package was finalized in February 2016. The updates are considered technical edits from the approved SY 2016-17 names and definitions because they are intended to clarify intent.*

*Do you see any potential issues with revising the permitted values and definitions in SY 2017-18?*

<i>SY 2016-17 Virtual School Status (DG 803) permitted values:</i>	<i>SY 2017-18 and 2018-19 proposed revisions in Virtual School Status (DG803) permitted values:</i>
<i>Full Virtual</i>	<i>Exclusively Virtual</i>
<i>Virtual with Face to Face Options</i>	<i>Primarily Virtual</i>
<i>Supplemental Virtual</i>	<i>Primarily Classroom</i>
<i>Not Virtual Instruction</i>	<i>No Virtual Instruction</i>

### Public Comments

A total of 9 states submitted 9 statements related to the modification of the Virtual school status data group. Of the 9 statements, 7 were supportive of the proposed changes, while 2 states asked questions requesting further clarification.

- "Virtual with Face to Face Options" and "Supplemental Virtual" are problematic. We recommend that the change to "Virtual with Face to Face" include the word "Blended" as this is language in common use in the field such as "Primarily Virtual/Blended." We would not recommend the change suggested for "Supplemental Virtual" to "Primarily Classroom", as the "Supplemental" language is again what is more typical of the language used by the field; "Primarily Classroom", the used recommended change, is not clear and doesn't speak to Virtual at all. It could be indicative of any alternative classroom space, and does not specify Virtual.



- Please consider allowing a “not applicable” option for 2017-18 and 2018-19. We can identify campuses that are exclusively virtual but it will be difficult to characterize campuses as primarily virtual or primarily classroom. We will be unable to fully report data on this data group until the permitted values stabilize.

### **ED Response**

While “blended learning” is relevant to discussions of virtual education, ED believes it would be misleading to change “Primarily Virtual” to “Primarily Virtual/Blended,” since “blended” is also descriptive of the third category, “Primarily Classroom.” NCES will revise the file specification to include the concept of blended learning in the guidance for this data group. The argument for retaining the term “Supplemental Virtual” instead of changing it to “Primarily Classroom” is valid and NCES will retain the existing term.

As described in attachment B-3 to the OMB package, the distinction is based on the school’s major purpose or mission, it is not NCES’ intention to require a tabulation of course attributes to distinguish between “Primarily Virtual” and “Primarily Classroom.” If the school’s focus is on providing virtual education and only provides some classroom instruction incidental to that, then it should be classified as “primarily virtual.” Traditional schools, where teachers and students are physically in the same space and virtual education is used to supplement classroom instruction should be classified as “primarily classroom.” NCES appreciates the point that a school’s virtual status may not be known to the SEA at this point and a permitted value of “Missing” will be added to the technical reporting requirements in the file specifications to accommodate those cases. “Not Applicable” would be inappropriate for this category set since a school must fall into one of the four categories.

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## **SUPPORT & SUPPORT IDENTIFICATION**

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There was no direct question on the proposed support and support identification data groups below, but several statements were received.

- DG: Comprehensive support and targeted support schools
- DG: Comprehensive support identification
- DG: Targeted support identification

A total of 9 statements were received on this topic from 3 different states. Several states commented on the timeline. Comments below are presented as received (not summarized).

### **ED Response**

ED would like to clarify that most reporting requirements in this package that were revised or added due to the passage of ESSA begin in the 2017-18 school year. ED revised the final regulations published in the federal register on November 29th, 2016, states are now required to begin reporting on which schools are identified for comprehensive support and targeted support in SY2018-19. This collection package also reflects this change.

### **Public Comments – *Timeline for Graduation Rates***

Our concern is regarding the 2017-2018 deadline, the timing for identification of high schools for comprehensive support and improvement and support based on their graduation rates. Under the statute,

cohort graduation rates are calculated by including, in the numerator, students who graduate at the conclusion of the school year as well as those who graduate at the end of the summer session that follows the school year. Because of the inclusion of the summer graduates, it will not be possible to calculate graduation rates for 2016-2017 until the end of summer 2017, the same time at which SEAs would be required to identify schools.

### **ED Response**

Thank you for your comment regarding the identification of comprehensive support schools based on schools' four-year adjusted cohort graduation rates. ED recognizes that the use of the preceding year's adjusted cohort graduation rate data will be difficult given the inclusion of summer graduates. For this reason, ED revised the final regulations published in the federal register on November 29th, 2016 to permit States to lag graduation rate data by one year for the purposes of school accountability, including the identification of low graduation rate high schools and calculation of the Graduation Rate indicator.

### **Public Comments - Targeted Support Identification**

Currently, ED is proposing that SEAs only report the subgroup that led to the school being identified in the targeted support group. Would it also be useful to know which area the subgroup was identified under (e.g. Mathematics, Reading/Language Arts, High School Graduation Rate)? Recommendation: Add a data category that allows (but does not require) disaggregation by subject/area if a state chooses to disaggregate by that additional information. Also, I'm assuming that we aren't required to have all of these permitted values in our system (e.g. Hispanic, not Puerto Rican). Is that correct?

### **ED Response**

The list of subgroups associated with that permitted value is intended to capture all possible subgroups that states might include in their accountability plans. States are only expected to use the racial/ethnic groups that are applicable to their accountability system.

### **Public Comments - Comprehensive Support Identification**

There is a permitted value called "Lowest performing five percent of Title I schools." Will we report non-Title I schools identified for comprehensive support with this permitted value through EdFacts even though the schools are not Title I? Will that be allowed?

### **ED Response**

The relationship between title I status and eligibility for school improvement support has changed under the ESEA, as amended by the ESSA, and section 1003(b)(1)(A) of the ESEA requires that any school that is identified for comprehensive or targeted support and improvement is eligible for school improvement funding under section 1003. However, Section 1111(c)(4)(D)(i)(I) of the ESEA, as amended by the ESSA, a state is limited to identifying only schools that receive title I funds when it identifies its lowest-performing five percent of title I schools for comprehensive support and improvement. States should not identify non-title I schools as low-performing for the purposes of identification as a comprehensive support and improvement school. Note that the permitted values for comprehensive support school identification have been updated to align with the final regulations.

There were no direct questions related to the new English Learner data groups but several statements were received.

- DG: English learner not proficient table
- DG: Title III English learners exited table
- Data Category: English Learner Status (RLA)

A total of 11 individual statements were received on this topic from 5 different states.

Since the release of the 60-day package, the Department has continued to build its understanding of the data needed to support ESEA, as amended by the ESSA. Our understanding has been aided by the public comments received in response to the Notice of Proposed Rulemaking for Accountability, State Plans, and Data Reporting as well as the comments received in response to this information collection. As a result, we are adding one new data group “Title III English learners not proficient after five years table” in the 30-day package. While not directly linked to any specific public comments, the Department has determined that these data are needed in order to support the effective implementation of Title III.

**Public Comments – 5<sup>th</sup> Year of Program**

Please provide clarification on the definition: “The number of English Learners who have not attained proficiency within five years of identification.” Should this be “five years of identification within reporting state?”

Are we counting the number of ELs not proficient by their 5th year in program, or by their 6th year, so that they have had a full 5 years in program? Are we counting the number of ELs not proficient by the beginning of the 5th year or by the end of the 5th year, so that they have had a full 5 years in program?

**ED Response**

The definition of the data group is "the number of English learners who have not attained English language proficiency within five years of initial classification as an English learner and first enrollment in the local educational agency." This definition is aligned with Section 3121(a)(6) of ESEA, as amended by the ESSA. States should report on the number of English learners who are not proficient by the end of their 5th year in a Language Instruction Educational Program.

**Public Comments – Language Instruction Educational Program (LIEP)**

It appears that LIEP will now be reported through EDFacts at the student level. We only collect data on student enrollment in bilingual versus English as a Second Language programs. The additional LIEP will need to be added to the collection in order for us to move to reporting this at the individual student level. The burden of new reporting at student level entails adding new fields to existing collections. New trainings will be required for LEAs to report all LIEP at the student level to the SEA.

**ED Response**

The Department does not collect data at the student-level via the EDFacts data collection.

The data by LIEP type is being proposed for collection at the state and district levels only. Under ESSA, states are not required to implement a particular type of LIEP. The Department does not recommend any particular curricula, program of instruction, or instructional materials, nor does it prohibit any language instruction educational program used with ELs that is consistent with Title III of the ESEA and other laws, including Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of

1974. States and LEAs may select any language instruction educational program that is effective and meets its Title VI and EEOA obligations. A program type of 'Other' was added to the 'Language Instruction Educational Program Type' category to allow states to report on LIEP types that do not fall into the other types. ED can add additional types to this EDFacts category as requested by states.

**Public Comments – *Language Instruction Educational Program Type***

Regarding the types of English instruction education programs to be reported, we would like to know whether this will be a required data element for all schools or simply the schools where this data would be relevant. Further, all five Permitted Values should be defined to provide clarity as to the parameters for each program. In addition to the five Permitted Values, EDFacts should also include an “other” value to accommodate programs that do not meet the requirements of the programs outlined. English as a Second Language and English Language Development are only taught by certified teachers. Most of our students would qualify under this category or would require an “other” value.

**ED Response**

Please note that the Department is not requiring the reporting of these data at the school-level. The data by LIEP type is being proposed for collection at the state and district levels only. Further, the data should only be reported for districts where students are being served by an LIEP supported with Title III funds. Under ESEA, as amended by the ESSA, states are not required to implement a particular type of LIEP. The Department does not recommend any particular curricula, program of instruction, or instructional materials, nor does it prohibit any language instruction educational program used with ELs that is consistent with Title III of the ESEA and other laws, including Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974. States and LEAs may select any language instruction educational program that is effective and meets its Title VI and EEOA obligations. A program type of 'Other' was added to the 'Language Instruction Educational Program Type' category to allow states to report on LIEP types that do not fall into the other types. ED can add additional types to this EDFacts category as requested by states.

**Public Comments – *Title III English Learners Exited***

Exited during the reporting year, or exited at any time? Please specify by the end of which program year. Is “exiting” based on testing or can it include if a parent opts out of services for their child?

**ED Response**

States should report the number of English learners who exited based on attaining English language proficiency during the reporting year. The number of English learners reported as exiting should be based on attainment of English language proficiency only. The proposed data group 'Title III English learners exited table' has been revised to clarify this requirement.

**Public Comments – *English Learners Not Proficient***

There are a lot of questions on how this data element would be reported. For instance, should states report these English Learners at the school level? Should they be reported at the last school they attended before crossing the five-year threshold? In addition, the data group name of 'English learners not proficient' is not entirely reflective of the data group definition, "The number of English learners who have not attained proficiency within five years of identification as an English learner." Recommendation: Do not require reporting at the school level for the new English learners not proficient table. School level reporting is not required for the new Title III English learners exited table. Rename the data group name to 'English Learners five-plus years not proficient' or similar.

**ED Response**

The Department has eliminated the proposed reporting requirement at the school level. Additionally, the data group has been renamed to 'English learners not proficient after five years' (See Attachment B-3 SY 2017-18 and 2018-19).

**Public Comments – *EL Definition***

Definition of EL revised: is USED recommending that our SIS be updated with the new language, or is this just an FYI of their use of EL?

**ED Response**

ED recommends that States review their current definition of English learner to ensure it is in full compliance with the definition in Section 8101(20) of the ESEA, as amended by the ESSA.

**Public Comments – *Monitored Former EL Category Changes***

Is USED only requiring 1st and 2nd year of monitoring? Or is the change to include 3rd and 4th year of monitoring?

**ED Response**

ED is requiring reporting on all four years of monitoring. The information collection package documents have been corrected.

**Public Comments – *Types of EL instruction education program***

Has the list of types of EL instruction been aligned across other federal collections? Does it sync with what is asked in CCIP and OCR? Will there be room to list others? Once the final list is compiled, states will need time to adjust student information systems to collect or to adjust/create surveys to collect

**ED Response**

Thank you for your comment regarding the types of language instruction educational programs included in this information collection. The program types align with the common English learner programs considered educationally sound in theory in EL toolkit available at <http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/eltoolkit.pdf>. Under ESSA, States are not required to implement a particular type of LIEP. The Department does not recommend any particular curricula, program of instruction, or instructional materials, nor does it prohibit any language instruction educational program used with ELs that is consistent with Title III of the ESEA and other laws, including Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974. States and LEAs may select any language instruction educational program that is effective and meets its Title VI and EEOA obligations. A program type of 'Other' was added to the 'Language Instruction Educational Program Type' category to allow states to report on LIEP types that do not fall into the other types. ED can add additional types to this EDFacts category as requested by states.

**Public Comment – *English Learner Accountability Permitted Values***

Are new permitted values (met, not met, exited changed to attained proficiency, did not make progress, making progress) just wording changes or will the values behind the definitions change as well? Not clear.

**ED Response**

Permitted values were changed or added to align with ESSA. For example, per Section 1111(h)(1) of the ESEA, as amended by the ESSA, Title I requires that States and LEAs annually report on English learners' progress in achieving English language proficiency. Therefore, 'Making Progress' now applies to all English learners (data group 676) which collects data on the number of English learners who took the annual state English language proficiency assessment. To the extent that ESSA changed existing program requirements or added new program requirements, data should align to these requirements. ED encourages States to review all regulations and related guidance issued by the Department. Additional information on ESSA can be accessed at the following link:  
<http://www2.ed.gov/policy/elsec/leg/essa/index.html>.

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## NEWLY PROPOSED DATA CATEGORIES

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There were no direct questions related to the newly proposed data categories below, but several statements were received.

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### FOSTER CARE STATUS

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#### **Public Comments**

A total of 4 individual statements were received on this topic from 4 different states. Two states noted they do not have this item, one state said their definition is different, and the final state challenged the statutory requirement to collect this in terms of assessment and accountability.

#### **ED Response**

States are required to disaggregate by students in foster care for the purposes of reporting on assessment results and graduation data. While disaggregating by that subgroup for the purposes of reporting on assessment participation is not explicitly required, ED believes that participation rates provide critical context for assessment results. We expect this to be low additional burden, as states must track participation data as part of calculating and reporting on assessment results. Section 8303(b) indicates that consolidated reporting "shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities." ED believes the proposed data collections in this information collection are wholly consistent with the Department's authority and that the information will aid the Department in understanding the implementation of and effectiveness of the ESSA in meeting its intended goals."

The Department's expectation is that States align to the definition included in this information collection as well as the final regulations published in the federal register on November 29th, 2016. For additional guidance, please see <http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>.

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### MILITARY CONNECTED STUDENT STATUS

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#### **Public Comments**

A total of 2 individual statements were received on this topic from 2 different states. One state said they would have this category in their system in time and the other state challenged the statutory requirement

to collect this category for the assessment and accountability data groups.

**ED Response**

States are required to disaggregate by military connected status for the purposes of reporting on assessment results. While disaggregating by that subgroup for the purposes of reporting on assessment participation is not explicitly required, ED believes that participation rates provide critical context for assessment results. We expect this to be low additional burden, as States must track participation data as part of calculating and reporting on assessment results. Section 8303(b) indicates that consolidated reporting “shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

ED believes the proposed data collections in this information collection are wholly consistent with the Department’s authority and that the information will aid the Department in understanding the implementation of and effectiveness of the ESSA in meeting its intended goals.

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SCHOOL LEVEL

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**Public Comments**

A total of 3 individual statements were received on this topic from 3 different states. All 3 states asked questions about the definition of the levels and whether all three need to be used. One state asked that a PK-12 or K-12 level be added.

**ED Response**

In response to public comments on the proposed School Level (Accountability) category, ED has decided to eliminate this reporting requirement. ED agrees that the proposed category would be overly cumbersome to report. ED will rely on other data already reporting to the Department to determine school level.

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EVERY STUDENT SUCCEEDS ACT (ESSA)

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There were no direct questions related to the Every Student Succeeds Act (ESSA) but several statements were received.

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TIMELINE

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**Public Comments**

A total of 6 individual statements were received on this topic from 4 different states, 1 LEA and 1 organization. The 6 statements expressed concern for the timeline proposed in the package.

**ED Response**

Implementation of most ESSA requirements, including reporting requirements, begins in the 2017-18 school year. Timelines for the data required through this information collection were designed to align with those requirements. The package includes a combination of continued, revised, and new data elements. ED expects that States already have the appropriate structure in place to collect continuing and revised items. ED understands that States need time to develop new data collections, implement

substantive revisions to existing collections and ensure all data submitted to the Department are of high quality. ED encourages states to move expeditiously to implement as many of the required changes as possible by the 2017-18 school year to ensure we have the information we need in order to successfully manage our grant programs.

ED would like to clarify that most reporting requirements in this package that were revised or added due to the passage of ESSA begin in the 2017-18 school year. States are required to begin reporting on which schools are identified for comprehensive support and targeted support in SY2018-19. Please see Attachments B-3, B-4 and C for data groups and categories that were streamlined or eliminated in an effort to reduce data reporting burden.

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### CONTINUED REPORTING FOR OLDER PROGRAMS

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#### **Public Comments**

A total of 6 individual statements were received on this topic from 3 different states. Of the 6 statements, 3 were asking about SIG reporting, 2 about assessment, and 1 was a general statement.

#### **ED Response**

While the School Improvement Grant program, as currently authorized by ESEA, as amended by No Child Left Behind (NCLB), has been eliminated by the Every Student Succeeds Act, some schools that received funds under NCLB will still be implementing the program in the school years included within this information collection. In order to monitor and determine the effectiveness of the grant program, ED has decided to continue the collection of SIG leading indicator data for the duration of schools' implementation of SIG. In accordance with section 5(e)(2)(B)(ii) of the ESSA, a State with priority and focus schools as identified under an approved ESEA flexibility request must continue to implement interventions applicable to such schools through the 2016-2017 school year.

In response to the public comments related to Mathematics Status (N108/DG555) and Reading/Language Arts Participation Status (N110/DG553) data, ED has decided to eliminate these collections beginning in SY2016-17 instead of SY2017-18. Please note that the underlying data collected in EDFacts files N185 and N188 are still required in all school years under this information collection.

See Attachments B-3, B-4 and C for data groups and categories that were streamlined or retired in an effort to reduce data reporting burden.

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### GENERAL ESSA COMMENTS

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#### **Public Comments**

A total of 4 individual statements were received on this topic from 3 different states. Of the 4 statements, 1 was in support of the EDFacts collection for ESSA reporting while the other 3 cautioned about prescribing implementation through federal reporting.

#### **ED Response**

With respect to the EDFacts information collection, the commenters did not identify specific collections that they believe are inconsistent with or go beyond Department's authority. We note, however, that there are multiple provisions under the ESEA, as amended by the ESSA, that authorize the Department to collect certain data included in the EDFacts information collection. For example, data collected through EDFacts are used for the Consolidated State Performance Report authorized under section 8303 of the



ESEA, as amended by the ESSA, which contains information about ESEA programs “including the performance under those programs, and other matters the Secretary determines are necessary, such as monitoring activities.”

To extent that the commenters question the Department’s ESEA accountability regulations, we note that such comments are outside the scope of this information collection; thus, we decline to address these comments. For the Department’s responses to comments received on the Department’s May 31, 2016 Notice of Proposed Rulemaking on accountability, State plans, and data reporting under the ESEA (81 FR 34539), please see the Department’s final regulations published in the Federal Register on November 29, 2016 (81 FR 86076).

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## OSEP/IDEA

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There were no direct questions relating to the Office of Special Education Programs (OSEP) or the Individuals with Disabilities Education Act (IDEA) data elements of the EDFacts data collection, but several statements were received.

### Public Comments

A total of 6 individual statements were received on this topic from 3 different states and 3 organizations. Of the 6 statements, there were comments on 2 topics:

- **Alternative Diplomas and Certificates:** Adding a reporting category for students with disabilities who exit special education and school by receiving an alternate diploma as defined in the Every Student Succeeds Act (ESSA); and defining the “Received a Certificate” reporting category that excludes students with disabilities who receive a state-defined alternate diploma for students with the most significant cognitive disabilities for the Part B Exiting data collection. Commenters were concerned that these changes would lead to differences when comparing states that do not have these options.
- **Highly Qualified Status:** The way in which ED is proposing to collect Highly Qualified Status is not aligned to highly qualified provisions under IDEA. Fully certified, as ED proposes in this data collection, is more restrictive than highly qualified under IDEA. Under IDEA you can be enrolled in an alternative program working towards full certification and still be considered highly qualified [see IDEA, Sec. 300.18 (b)(2)]. Thus, the proposed data collection will make it look like fewer teachers are meeting the highly qualified standard under IDEA.

### ED Response

**Alternate Diplomas and Certificates:** ESEA, as amended by ESSA, allow States to offer a State-defined alternate diploma for students with the most significant cognitive disabilities who have taken the AA-AAAS and count them as a graduates in the ACGR (section 1111(b)(2)(D)). This collection was amended for the 60-day comment period to allow States that have adopted the State-defined alternate diploma for students with the most significant cognitive disabilities to report those students using the definition provide under ESSA (section 1111(b)(2)(D)). This is to ensure that each State is reporting accurate data regarding how students with disabilities are exiting high school. Guidance on how States should report alternate diplomas versus regular diplomas and certificates will be included in the technical instructions in the EDFacts file specifications. . Issues raised by commenters regarding how State-defined alternate diplomas will be considered in the IDEA Annual Determinations process will be clarified through our annual review of the process of making the determinations.

Highly Qualified Status: See new Category “Qualification Status (Special Education Teacher)” in Attachment B-4 SY 2017-18 and 2018-19. The new certification category used for Special Education teachers is aligned to IDEA as per the following section in ESSA (section 9214(d)(2)). The EDFacts data file specification will include detailed definitions and any necessary links to statute or regulations.

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## CHRONIC ABSENTEEISM

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There were no direct questions relating to the Chronic Absenteeism data elements of the EDFacts data collection, but several statements were received.

### **Public Comments**

A total of 8 individual statements were received on this topic from 3 different states. Of the 8 statements, 2 requested a grace period, one asked if OCR is collecting this information through the CRDC, and 6 were questions about clarifying the definition.

### **ED Response**

As noted in the approved EDFacts collection package, the EDFacts data groups on chronic absenteeism will be collected in place of the CRDC data collection (the last CRDC collection of chronic absenteeism is for SY 2015-16). This will allow different programs in the Department access to this important data on an annual basis. SEAs should put forward their best effort in reporting this data to EDFacts in the SY 2016-17 collection. While the Department acknowledges that there is an increased burden placed on State Education Agencies to submit these data to EDFacts, districts in each state are already required to submit chronic absenteeism data to the Department via the Civil Rights Data Collection. Due to the importance of the data to the Department, the program offices requesting the data do not find the comments compelling to allow for a grace period and encourage SEAs to work with their districts to get this data SY 2016-17.

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## GENERAL COMMENTS

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There were 14 statements submitted from 6 different states and 3 organizations that were not directly related to a specific question or proposed change. The statements have been grouped and summarized below.

### **Public Comments - Burden**

There were 8 comments submitted regarding the burden of the EDFacts collection. There was 1 comment about new items to the SY 2016-17 files.

### **ED Response**

ED Program Offices went through considerable effort to reduce the reporting burden in this package by proposing the deletion of multiple data groups and levels of collection that were no longer necessary. Additional data is eliminated as a result of the comments received and summarized in this document. In the process of preparing for the package, all data elements collected were reviewed and those still needed by the stewarding office remained in the package. More specifically, the following are the additional data groups eliminated:

- DG 523: Discipline incidents table (SY 2016-17)
- DG 601: Firearm incidents table (SY 2016-17)
- DG 31: School poverty percentage (SY 2016-17)
- DG 555: Mathematics participation status table (SY 2016-17)
- DG 553: Reading/language arts participation status table (SY 2016-17)
- DG 737: Teacher evaluations table (SY 2016-17)
- DG 738: Principal evaluations table (SY 2016-17)
- DG 740: HS graduates postsecondary credit earned table (SY 2016-17)
- DG 752 Baseline indicator status (SY 2017-18)

There are no new items being proposed for SY 2016-17.

**Public Comments – *Postsecondary enrollment and credits***

There is a discrepancy between the definitions of high school graduate diplomas. The first report includes a regular or alternate high school diploma but the second report only includes a regular diploma. In states where there are different diplomas offered by the high school, the numbers reported in these two tables could potentially be different. It would make comparisons between enrollment and credits difficult and less transparent. DG 739: HS graduates postsecondary enrollment table and DG 740 HS graduates postsecondary credit earned table

**ED Response**

ED is eliminating Data Group 740 as of School Year 2016-17.

**Public Comments – *Direct Certification***

How will reporting direct certification at the school level impact the requirement to serve Title I schools in rank order of poverty determination assigned to grade spans? These requirements may have unintended consequences for ranking of schools.

**ED Response**

Regarding Direct Certification data, there is no intended impact on Title I requirements. Reporting Direct Certification is for purposes of the Common Core of Data (CCD).